

03500.100171.



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
TAKASHI IMAI, et al.)
Application No.: 10/775,095)
Filed: February 11, 2004)
For: IMAGE PROCESSING)
APPARATUS, AND)
CONTROL METHOD AND)
PROGRAM FOR IMAGE)
PROCESSING APPARATUS) March 4, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Sir:

In response to the Election Of Species Requirement dated January 4, 2008, the period for response to which having been extended to March 4, 2008 by the accompanying Petition For Extension Of Time with fee, Applicants hereby elect to prosecute Species I.

All claims read on the elected species. This differs from the opinion expressed in the Requirement, which alleges that only Claims 25, 26, 28, 29, 31 and 32 read on Species I. This difference is explained below.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

March 4, 2008
(Date of Deposit)

Michael J. Guzniczak, Reg. No. 59,820
(Name of Attorney for Applicant)

Signature

March 4, 2008
Date of Signature

In addition, the Election Of Species Requirement is traversed, as follows:

First, Applicants respectfully submit that the Office's position that "a" limits the claimed card slot (or card reader) to a single card slot, or a single card reader is unsupportable as a matter of law. Numerous case law makes clear that the indefinite article "a" or "an" means "one or more". In fact, the Federal Circuit recently stated that such interpretation is not simply a presumption, but is a "rule". See Baldwin Graphic Systems, Inc., v. Siebert, Inc., Slip Op. 2007-1262, pg. 7:

"'This court has repeatedly emphasized that an indefinite article 'a' or 'an' in patent parlance carries the meaning of 'one or more' in open-ended claims containing the transitional phrase 'comprising.' *KCJ Corp. v. Kinetic Concepts, Inc.*, 223 F.3d 1351, 1356 (Fed. Cir. 2000). That 'a' or 'an' can mean 'one or more' is best described as a rule, rather than merely as a presumption or even a convention. The exceptions to this rule are extremely limited: a patentee must 'evidence[] a clear intent' to limit 'a' or 'an' to 'one.' *Id.* The subsequent use of definite articles 'the' or 'said' in a claim to refer back to the same claim term does not change the general plural rule, but simply reinvokes that non-singular meaning. An exception to the general rule that 'a' or 'an' means more than one only arises where the language of the claims themselves, the specification, or the prosecution history necessitate a departure from the rule.'"

A copy of Baldwin is attached.

Second, each of the embodiments disclosed in the specification is seen to disclose multiple card slots (or card readers). Accordingly, the exceptions in Baldwin do not apply. Moreover, the Requirement's interpretation of a single card slot or reader can not be correct, since it would lead to a situation in which there are claims which do not

read on any of the disclosed embodiments.

Third, the Requirement does not identify embodiments from the specification, as required by MPEP § 806. In particular, the Requirement points to objects of the invention, not embodiments of the invention.

Accordingly, for at least the reasons above, withdrawal of the Requirement is respectfully requested, together with examination of all of the claims on the merits.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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